

**STATE BOARD MEETING DATE**

August 26, 2013

**SUBJECT:** Consideration of Review Case No. C-2010-036, David Aleman

**SUBMITTED BY:** Charles Easaw, Chief Investigator, Investigative Unit, State Board of Education

**MANAGEMENT TEAM REVIEW:** August 8, 2013

**BACKGROUND INFORMATION:**

On November 9, 2007, the Investigative Unit for the State Board of Education (the "Board") received a report of unprofessional conduct on the part of David Aleman from the Cartwright Elementary School District ("CESD"). The report alleged that Aleman, a teacher at Dessert Sands Middle School, had been selling drugs on school grounds.

The Board filed a complaint against David Aleman's teaching certificates. On August 17, 2010, the Professional Practices Advisory Committee (the "PPAC") held a hearing on the complaint. Mr. Aleman admitted to facilitating the transfer of marijuana, one time, to two other teachers in the CESD. He said that the marijuana was delivered to his vehicle, which was parked on the street, off of district property, during a district training session. After the training session, he transferred the marijuana at another location in the vicinity, but off district property.

At the hearing, one of the PPAC members asked why Mr. Aleman did not have any character witnesses to present. It was explained that in a complaint hearing, the State does not advise the respondent to present witnesses or letters of reference. If the respondent is represented by counsel, these issues are usually considered. Mr. Aleman was not represented by counsel at the hearing. The PPAC decided to move forward rather than continue the hearing.

At the conclusion of the hearing, the PPAC found Mr. Aleman's actions constituted unprofessional conduct. The PPAC recommended, by a vote of **3 to 2**, that the Board revoke any and all teaching certificates held by David Aleman.

At its October 25, 2010 meeting, the Board, by a vote of **6 to 0**, adopted the majority recommendation of the PPAC to revoke Mr. Aleman's certification. Pursuant to Arizona Revised Statutes § 41-1065, Mr. Aleman timely filed a request for rehearing and review of the decision by the Board to revoke his certification. As a basis for the rehearing, Mr. Aleman provided that he was not fully aware of his right to present character witnesses on his behalf.

Mr. Aleman timely filed a notice for a rehearing or a review of the Board's decision.

The Board may grant a rehearing pursuant to Arizona Administrative Code ("A.A.C.") R7-2-709.

R7-2-709 (B) reads as follows:

A rehearing of a decision by the Board may be granted for any of the following causes materially affecting the moving party's rights.

1 Irregularity in the administrative proceedings of the hearing body, or abuse of discretion, whereby the moving party was deprived of a fair hearing.

- 2 Misconduct of the hearing body or the prevailing party.
- 3 Accident or surprise which could not have been prevented by ordinary prudence.
- 4 Newly discovered material evidence which could not with reasonable diligence have been discovered or produced at the hearing.
- 5 Excessive or insufficient penalties.
- 6 Error in the admission or rejection of evidence or other errors of law occurring at the administrative hearing.

A.A.C. R7-2-709 (C) reads as follows: The Board may affirm or modify the decision or grant a rehearing to all or any of the parties, on all or part of the issues, for any of the reasons set forth in subsection B herein. An order granting a rehearing shall specify with particularity the ground or grounds on which the rehearing is granted, and the rehearing shall cover only those matters so specified.

A.A.C. R7-2-709 (D) reads as follows:

After giving the parties or their counsel notice and an opportunity to be heard on the matter, the Board may grant a motion for rehearing for a reason not stated in the motion. The order granting such a rehearing shall specify the grounds therefor.

**BOARD ACTION REQUESTED: [ ] INFORMATION [X] ACTION/DESCRIBED  
BELOW:**

That pursuant to A.A.C. R7-2-709, the State Board considers David Aleman's request for a rehearing.

**ATTACHMENTS: YES [X] NO [ ]**